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TERMINATION OF CORRESPONDENCE

BETWEEN

SIR MICHAEL HICKS-BEACH,

SECRETARY OF STATE FOR THE COLONIES,

AND

MR. RYLAND,

RELATIVE TO THE

SPOILIATION OF THE LATTER'S OFFICE,

AND

BREACH OF FAITH ON THE PART OF THE CROWN.

"QUI NON VETAT PECCARE CUM POSSIT JUBET."

MONTREAL:

D. BENTLEY & Co., PRINTERS, 364 NOTRE DAME STREET.

1880.

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The EDITH and LORNE PIERCE
COLLECTION *of* CANADIANA



Queen's University at Kingston

Not in C.A.

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CANADA.

No. 199.

Sir M. E. Hicks-Beach to The Marquis of Lorne.

DOWNING STREET, 26th June, 1879.

MY LORD,

MR. RYLAND,
10th April, 1879.

MR. RYLAND,
1st May, 1879.

With reference to my despatch, No. 31, of the 4th of February last, I have the honor to transmit to you, copies of the further letters, noted in the margin, which have been received from Mr. Ryland, relating to his alleged claim against Her Majesty's Government.

I request that you will inform Mr. Ryland that the arguments adduced by him have been carefully considered, but that no direct claim on his part against the Imperial Government can be admitted, and that, apart from this, there is at present no ground upon which any claim for compensation could be based, as it does not appear, from the correspondence, that the Law of the Province of Quebec, of 1875, has had the effect of reducing his income below the amount of £515, sanctioned by Lord Sydenham.

You will further acquaint Mr. Ryland, that the Secretary of State must decline to notice any further communication from him which is not sent through the Governor-General of Canada, in accordance with the established regulations.

I have, &c.

(Signed) M. E. HICKS-BEACH.

CITADEL,

QUEBEC, 9th July, 1879.

SIR,

I am desired by his Excellency, the Governor-General, to communicate to you the accompanying copy of a despatch from the Secretary of State for the Colonies, acknowledging the receipt of further letters from you, with reference to your alleged claim against Her Majesty's Government.

I am to draw your attention to the concluding paragraph of Sir M. E. Hicks-Beach's despatch.

I have the honor to be,

Sir,

Your most obedient, humble servant,

JOHN KIDD,

For the Governor General's Secretary.

G. H. RYLAND, Esq.,
Montreal.

WARWICK HOUSE,

MONTREAL, 26th July, 1879.

SIR,

His Excellency the Governor General has communicated to me your despatch of the 26th ultimo, with a desire on your part that all further communications from me, should be forwarded through His Excellency.

If in bringing my case under your notice, I have departed from the ordinary official course, it is because my claim is upon the Imperial Government, who have broken faith with me, and on no other.

In this view, permit me to say, I am borne out by your despatch of the 4th of February last.

I have already shown that if Lord Dufferin refrained from disallowing the Act of the Local Government of Quebec, subdividing my office for local political purposes, he acted, as it is now admitted he should not under the circumstances have acted, by the advice of the Dominion Cabinet, who were responsible to him for their advice, as he was responsible to the Imperial Government, for his official assent to a measure interfering with the pledges and arrangements of the Imperial Crown.

In your despatch above alluded to, you distinctly laid it down, that the Dominion Government inherited all the rights and liabilities of the Government of the Province of Canada. And yet with a full knowledge of all the facts in your hands, and the power as Her Majesty's Secretary of State for the Colonies, to insist upon the fulfilment of Imperial arrangements, you departed from the ordinary course in these matters, officially to exonerate and discharge the Dominion Government from all liability and obligation, using in doing so, the following unmistakable words: "nor could Her Majesty's Government require the Dominion Government to make any such payment."

This voluntary act upon your part, I contend, carried with it a direct admission that I had to do only with the Government with whom I originally contracted

No other construction could be put upon it, for the Local Government of Quebec, though in the first instance, the unchecked wrong-doer, could not, and did not, under the Confederation Act, inherit the rights and liabilities of the Province of Canada. This being undeniable, I proceed to discuss the remainder of your despatch of the 26th ultimo.

I am told that the arguments contained in my communication of the 10th of April and 1st of May last, "have been carefully considered &c., but that no direct claim on my part against the Imperial Government can be admitted."

Now, Sir, allow me to remark, that the communication referred to, contains no arguments, but simply a request that before involving me in an expensive process against the Government, attending a Petition of Right, my case, with the opinion of the highest legal authority in Canada thereon, should be submitted to the Law Officers of the Crown in England.

There was nothing in such a request unreasonable or improper, requiring three months consideration before vouchsafing a reply, particularly when you yourself, as I have shown officially, absolved all Canadian authorities from responsibility in the matter. But further on I am told that "there is at present no ground upon which my claim for compensation could be based, as it does not appear from the correspondence that the Law of the Province of Quebec, of 1875, has had the effect of reducing my income below the amount of £515, sanctioned by Lord Sydenham."

Permit me respectfully to remark, that the question is not whether my present office gives me £515 or £5,000 per annum. The

question is: What have I lost? The answer is plain: The "excess guaranteed to me, amounting in round numbers to £2,000 per annum, and the office itself given me in exchange for the Imperial Office, which on public grounds I consented to surrender." And here it may not be amiss to remind you,

1st. That my right to compensation for all losses consequent on my surrender of office, was years ago admitted by both branches of the Legislature of Canada, and by the House of Lords.

2nd. That I have not received one shilling on account of these losses, for Chief Justice Carter did not go into them; nor for the loss of one-half of the income attached to the office, I placed in the hands of Her Majesty's Lord High Commissioner. Moreover, that as long as there was a chance of my recuperating myself out of my office, I refrained from pressing the matter on the Government.

But the case is now entirely changed. The arrangement between the Crown and myself is broken up and cancelled, not by any act of mine, but by its own Representative.

Under these circumstances, that there may be no mistake, as to the exact nature of my claim, I proceed to set it forth:

FIRST, I claim to be put back in the position I held in 1840, and to have the Income £1,030, attached to the office I surrendered, made up to me with interest, from that period to the present date.

SECONDLY, I claim compensation for the loss of my landed estates and policies of Assurance, sacrificed in the conscientious discharge of my arrangements with Her Majesty's Lord High Commissioner.

THIRDLY, as at the period of the said arrangement, I was entitled under the Act 4th and 5th, Will IV., Cap. 24, to retire from the public service on a pension of £515 per annum.

I claim under the same Act, with my increased length of public service, a retiring pension, equal at least to the office I surrendered.

Again, respectfully praying that before driving me to extreme measures to obtain redress, my claim be submitted to the Law Officers of the Crown in England, with a view to a prompt and liberal settlement thereof.

I have the honor to be

Sir,

Your most obedient servant,

G. H. RYLAND.

WARWICK HOUSE,

MONTREAL, 2nd August, 1879.

SIR,

With reference to the subject matter of the communication I had the honor to address to you, through His Excellency the Governor General, on the 26th ultimo. I now venture to suggest a simple and easy mode of arriving at a solution of my claim on Her Majesty's Government, without reference to the Law Officers of the Crown, or the Judicial Committee of the Privy Council.

In all matters of importance, affecting the welfare of the State or the honor of the Imperial Crown, the Government, I believe, have the right to consult the highest legal authority in the Empire, *i. e.*, the Lord Chancellor.

My case is without precedent in the British Colonies.

My proposal therefore is, that my case, with the report of the late Minister of Justice, Mr. Blake, and the legal opinion of Mr. Justice Day, and Mr. Justice Badgley, be submitted to Lord Cairns.

If this is done without reserve, including all correspondence on the subject to present date, I am prepared to abide by His Lordship's decision.

I do not think a fairer proposal could be made. I am entirely unknown to Lord Cairns, and he being unbiassed, with nothing but the naked facts before him, will have no difficulty in arriving at a just and impartial decision, which will do away with all further correspondence and litigation, on the subject.

In the hope that this proposal may meet with your approbation, I have placed in the hands of the Governor General's Secretary, for transmission, a printed copy of the case, with correspondence, &c., up to 10th of April last. Copies of subsequent correspondence can be furnished from the Colonial Department.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) G. H. RYLAND.

GOVERNOR GENERAL'S OFFICE,

OTTAWA, 21st October, 1879.

SIR,

I am desired by the Governor General to transmit to you the accompanying copy of a despatch from the Secretary of State for the Colonies, acknowledging the receipt of two communications, which you addressed to Sir M. E. Hicks-Beach, with reference to your alleged claims.

I have the honor to be,

Sir,

Your most obedient servant,

F. DE WINTON, R.A.,

Governor General's Secretary.

G. H. RYLAND, Esq.
Montreal.

Sir M. E. Hicks-Beach to The Marquis of Lorne.

DOWNING STREET, October 1st, 1879.

MY LORD,

I have the honor to acknowledge the receipt of your despatch, No. 221, of the 5th of August, enclosing two communications addressed to me by Mr. Ryland, with reference to his alleged claims against the Imperial Government, in the latter of which, dated the 2nd of August last, he expresses his willingness to abide by the decision of the Lord Chancellor, or the Law Officers of the Crown, before whom he is desirous his case should be laid.

I request that you refer Mr. Ryland to the answer contained in my despatch, addressed to you on the 26th of June last, No. 199, and that you will inform him that Her Majesty's Government fail to see that there would be any advantage in submitting the papers to the Law Officers or to the Lord Chancellor.

I have, &c.

M. E. HICKS-BEACH.

OTTAWA, 5th November, 1879.

SIR,

I am directed by the Governor General to acknowledge the receipt of your letter of the 3rd instant, and to inform you that His Excellency will forward the enclosure contained therein to the Secretary of State for the Colonies.

I have the honor to be,

Sir,

Your most obedient servant,

JOHN KIDD,

For the Governor General's Secretary.

G. H. RYLAND, Esq.

Montreal.

OTTAWA, January 7th, 1880.

SIR,

I am desired by His Excellency the Governor General to transmit to you, for your information, the accompanying copy of a despatch from the Secretary of State for the Colonies.

I have the honor to be,

Sir,

Your most obedient servant,

F. DE WINTON, R.A.,

Governor General's Secretary.

G. H. RYLAND, Esq.

Montreal.

WARWICK HOUSE,

MONTREAL, 3rd November, 1879.

MY LORD,

I have the honor to enclose my reply to the despatch of Sir Michael Hicks-Beach, bearing date of the 1st October, 1879.

The loss to which I have been subjected by the subdivision of my office, already amounts in round numbers to about \$20,000, and the diminution of my annual official income may hereafter be fairly estimated at from \$8,000 to \$9,000.

A more barefaced job in the face of known Imperial arrangements, for political local purposes, never was perpetrated, and yet Her Majesty's Secretary of State for the Colonies, entrusted as such with the maintainance of the national honor, and bound thereby promptly to interfere in my behalf, shields himself behind his official position, not only to condone, but to ratify, the transaction.

I have the honor to be.

My Lord.

Your Excellency's most obedient servant,

(Signed) G. H. RYLAND.

WARWICK HOUSE,

MONTREAL, 31st October, 1879.

SIR,

I think it right at once to acknowledge the receipt of a copy of your dispatch to His Excellency the Marquis of Lorne, dated 1st October instant, in reply to two communications I had the honor to address to you on the 26th July and 2nd of August last.

When first I brought my case officially under your notice I was justified in supposing, that I should not only have your sympathy, but that you would take prompt steps to secure me immediate justice and relief.

Premising that all the facts accompanying my appeal to you had been previously officially admitted and confirmed, it is with regret that I have now to complain, that from first to last, I have been met by you in a spirit of marked hostility.

To such an extent indeed has this been shown, that though in your despatch of the 7th of February, 1879, an explanation is given why the ordinary courtesy of a reply to my communication of the 20th August, 1878, had been so long withheld—to wit: "That you understood there was reason to hope I would accept an arrangement which the Earl of Dufferin has suggested"—you immediately proceeded virtually to condone the act of the Local Government of Quebec, setting aside the arrangement between the Imperial Government and myself, and directly discharging the Dominion Government from all liability in the premises.

To struggle against an adverse will, especially when backed by official power, is at all times an up-hill and difficult process.

Nevertheless, believing with the late Lord Metcalfe, that "human nature, the same everywhere, would ultimately yield to reason and justice, calmly enforced, when even those who were wrong would, under its influence, set themselves right." I placed in your hands the opinions of the two highest legal authorities in Canada, backed by the report of the Minister of Justice, and other high legal opinions in my favor.

It was natural to suppose that these opinions on a question involving, not only the rights of the subject, but the honor of the Imperial Crown, would have had some weight with Her Majesty's Secretary of State for the Colonies.

I did not, however, ask you to be guided by these opinions, but simply to submit them with my case to the Law Officers of the Crown.

So anxious, indeed, was I for a peaceful and speedy issue, and so satisfied of the justice of my claim, that a few days subsequently, I offered to leave the whole matter to the final decision of one individual, to whom I was utterly unknown—viz, to Lord Chancellor Cairns.

And here, sir, permit me, with the utmost respect for your high position, to remark, that had you conscientiously believed in the justice of your course towards me, you would gladly have availed yourself of an offer which would have shifted from your own shoulders to that of others, all further trouble and responsibility in the matter.

I readily, however, agree in the latter part of your despatch of the 1st of October, that no advantage would be gained by Her Majesty's Imperial Government, by a reference of my case to the Law Officers of the Crown in England, or to the Lord Chancellor.

In the first instance, the Law Officers, bound by their oath would have based their opinion on law, justice, and equity.

In the second place, as regards Lord Cairns, he is a nobleman of not only the highest legal knowledge and ability, but a man of undeviating justice, jealous of the national honor, and prepared at all times to uphold it at home and abroad.

Carrying out, however, to the utmost the pernicious policy of expediency, which, to the discredit of the Empire in Her Majesty's Colonial possessions, has for some time prevailed in Downing Street, you have elected arbitrarily to exercise your official might to crush right and stifle enquiry.

Under these circumstances, with your evident ill will towards me, I feel that it would be useless to ask you to reconsider your decision. Nothing, therefore, is left to me but to pursue a course, which but for my desire for peace, I should, in the interest of my family, have adopted long ago.

In conclusion, I would merely add, that if in carrying through my case I am compelled to use documents, which for the credit of a late high functionary I would gladly have kept back, you must bear in mind that you have forced upon me a proceeding which on every account I would have avoided.

I have the honor to be,

Sir,

Your obedient servant,

(Signed) G. H. RYLAND.

Sir M. E. Hicks-Beach to The Marquis of Lorne.

DOWNING STREET, 13th December, 1879.

MY LORD,

I have the honor to acknowledge the receipt of your Lordship's despatch, No. 319, of the 5th of November, enclosing a letter from Mr. Ryland, on the subject of his alleged claims against the Imperial Government.

I request that you will inform Mr. Ryland that it is not my intention to make any reply to his letter, and that I have desired you not to receive any further communications from him for transmission to me.*

I have, &c.

(Signed) M. E. HICKS-BEACH.

*The philosophy of might: Brennus casts his sword into the scales.

WARWICK HOUSE,

MONTREAL, 15th January, 1880.

SIR,

The Marquis of Lorne has placed in my hands a copy of your despatch of the 13th ultimo, informing me that you did not intend to reply to my official communication of the 3rd November last, and desiring that no further letters should be transmitted by His Lordship.

In concluding our official correspondence, with the assurance that your desire will be complied with, I claim the right, as between gentlemen, to offer some remarks in recapitulation of my case.

Premising that my father's public services (for which he twice received the thanks of the House of Commons) and my own, extend together over a period of one hundred and twenty years, I would submit that it was in reward and acknowledgement of these services that I was given the patent office which I subsequently, on public grounds, consented to surrender, in order to facilitate an important measure of the Imperial Senate, "dear" (to use the words of Lord John Russell) "in "Her Majesty's estimation."

That under the said arrangement with the Imperial Crown, I was induced to accept in exchange for the office so surrendered, another office with a *minimum* and *maximum* guarantee of income attached thereto.

That the sacred nature and validity of this arrangement and guarantee of the Imperial Crown was fully recognized by the highest legal authorities in England, including Lord Lyndhurst and Lord Brougham, by the Legislature of Canada, by the House of Lords and House of Commons, as well as by every succeeding Secretary of State previous to your accession to office.

That when, notwithstanding my protest to the contrary, backed by the express ^{ed} wish of the people, my said office was subdivided for local political party purposes, and the arrangement between myself and the Imperial Crown roughly violated, with the subsequent concurrence of Her Majesty's representative in Canada, I brought the subject under your notice in the natural belief that you would consider it your duty to interfere, not to repudiate the promises, but to vindicate the honor of the Crown.

I asked no favor at your hands; I simply appealed to you as Her Majesty's Secretary of State, who has hitherto in her Colonial pos-

sessions, been considered the official custodian of the national honor, that right might be done. Mine was no ordinary case ; it was a claim founded on the written and officially acknowledged promises of the Crown, and in forwarding my appeal, I approached you with all the courtesy and respect due to your high position as a Minister of State.

In the primary part of your official reply, you indirectly admitted the validity of the claim, following up the admission by laying down the rule, that on Confederation of the British American Colonies, the Dominion Government of Canada took upon itself the debts and liabilities of the previous Government, then, with singular inconsistency, proceeded first to repudiate the claim on the part of the Imperial Government, and secondly, to travel out of your course to whitewash the Dominion Government, under whose advice the Earl of Dufferin, in a mistaken idea of his true position in this matter, sanctioned the act of spoliation complained of. In fact, to sum up, you, on the part of the Imperial authorities, with whom I treated for the surrender of my office, used your official power to shut me out from redress, either from the Imperial or the Dominion Government.

These are the naked and undeniable facts of the case. That there has been a want of moral courage in dealing with them every unprejudiced person will admit.

It is possible that, smarting under prolonged injustice, I may in my appeal to you, as Her Majesty's Secretary of State, have expressed myself in stronger language than is ordinarily used in addressing the magnates of Downing Street. But two wrongs do not make one right, or do away with the binding nature of an admitted official contract conscientiously fulfilled by one party, and persistently evaded by the other ; the facts of the contract, and the violation thereof, remain unchanged.

But though, judging from the tone of your despatch of the 13th ultimo, it is not improbable that you will continue to use your personal and official influence to debar me from justice ; yet in my entire confidence in the proverbial honor and justice of the British Government, I shall fight the matter through in the full belief that in the High Court in which I am about to appear, my claim will not only be sustained, but that I shall ultimately obtain a satisfactory settlement.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) G. H. RYLAND.

